

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

BRIAN D. STECKEL,	:	
	:	
Petitioner,	:	
	:	
v.	:	Civil Action No. 02-436-JJF
	:	
THOMAS CARROLL, Warden, and	:	
M. JANE BRADY, Attorney	:	
General	:	
	:	
Respondent.	:	

John P. Deckers, Esquire of JOHN P. DECKERS, ESQUIRE, Wilmington, Delaware.
Attorney for Petitioner.

Loren C. Meyers, Esquire, Chief of Appeals Division, of THE STATE OF DELAWARE DEPARTMENT OF JUSTICE, Wilmington, Delaware.
Attorney for Respondent.

O P I N I O N

April 13, 2004

Wilmington, Delaware

Farnan, District Judge.

Presently before the Court is a Petition Under 28 U.S.C. § 2254 for Writ of Habeas Corpus by a Person in State Custody (D.I. 2) filed by Petitioner Brian D. Steckel, through his counsel, John P. Deckers, Esquire. For the reasons set forth below, Petitioner's Section 2254 Petition will be dismissed and the Writ of Habeas Corpus will be denied.

BACKGROUND

In September 1994, Petitioner was indicted by a grand jury on multiple counts of first degree murder and additional related offenses arising from the September 2, 1994 killing of Sandra Long. In October 1996, Petitioner, represented by Jerome M. Capone, Esquire and Joseph A. Gabay, Esquire, was tried before a jury. The evidence adduced at trial demonstrated that Petitioner met Ms. Long approximately one week before the murder. Petitioner stayed occasionally with Ms. Long's neighbors, Tammy and Robert Johnson. Petitioner witnessed a verbal dispute between Ms. Long and Mrs. Johnson, after which he commented, "[I] should rape the bitch." (Steckel I, A35-A38, B59-B61).¹

On the day of Ms. Long's murder, Petitioner gained access to her Driftwood Club Apartment by asking her if he could use her telephone. (Steckel I, B3). Once inside, Petitioner pretended

¹ The designations "A" and "B" refer to the appendices to the opening and answering briefs filed by Petitioner and the State, respectively, in Steckel v. State, 711 A.2d 5 (Del. 1998) (Nos. 27 & 45, 1997) (Steckel I) and Steckel v. State, 795 A.2d 651 (Del. 2002) (No. 473, 2001) (Steckel III).

to use the phone, but unplugged it from the wall. (Steckel I, B64-B65). Petitioner then demanded sexual favors from Ms. Long, and she refused. Petitioner beat Ms. Long and threw her onto a couch pinning her beneath him. (Steckel I, B15-B18). During the struggle, Ms. Long bit Petitioner's finger causing it to bleed. (Steckel I, B6). Petitioner then attempted to strangle Ms. Long with a pair of nylons which he brought with him. When his attempts to strangle her with the nylons failed, Petitioner grabbed a sock and continued to strangle her with the sock. (Steckel I, B8, B79). Ms. Long eventually fell unconscious, and while unconscious Petitioner sexually assaulted her, first using a screw-driver he brought with him, and then by raping her anally. (Steckel I, B1-B26, B80).

Ms. Long remained unconscious while Petitioner dragged her to the bedroom and set the bed on fire using a black lighter which he had brought with him. Petitioner also set fire to the curtain in Ms. Long's bathroom. (Steckel I, B1-B26, B62-B66).

After setting the fires, Petitioner departed to have a few beers with a former coworker, Larry Day. Petitioner drove to the Day's residence during lunch time. Although Mr. Day came home for lunch, he returned to work leaving Petitioner alone with Mrs. Day. Petitioner then asked Mrs. Day to drive him to a liquor store to purchase beer. The route Mrs. Day took to the liquor store went past the now burning apartment of Ms. Long. Upon

passing the apartment, Petitioner became visibly angry and slouched down in his seat. Petitioner asked Mrs. Day why she went this way, and Mrs. Day said, "What's the matter with you, you're acting like you killed someone." Petitioner then denied killing anyone and instructed Mrs. Day to proceed to the liquor store. While driving, Mrs. Day noticed that Petitioner's finger was bleeding, but she dismissed the wound. After drinking several beers at the Day's home, Petitioner requested another ride from Mrs. Day, who dropped him off at a convenience store on Lancaster Avenue. (Steckel I, A45-A50).

In the meantime, police, firefighters and passers-by responded to Ms. Long's burning apartment building. Two men, Johnny Hall and Lane Randolph, who worked as tree climbers, were driving past the apartments and stopped to render assistance. When they approached the building, they heard Ms. Long, who had regained consciousness, screaming for help. The gentlemen tried to extricate Ms. Long from the building, grasping her arm briefly, but the temperatures and smoke from the fire prevented them from completing the rescue. (Steckel I, A28-A34, B55-B56, B65-B66). Ms. Long died in her apartment and her body was badly burned. (Steckel I, A30, B57-B58).

Later the same day, the News Journal received an anonymous phone call from a male who identified himself as the "Driftwood Killer." The man named his next victim as Susan Gell. The News

Journal contacted the police, and the police brought Ms. Gell into protective custody. (Steckel I, A51-A52). Ms. Gell had previously reported to the police that she had been receiving harassing phone calls with a "very lurid, very sexual" content. (Steckel I, A27). The authorities had traced these calls to Petitioner.

Based on the phone calls to the News Journal and the connection to Ms. Gell, the authorities began to suspect Petitioner of Ms. Long's murder. Petitioner was arrested in September in connection with an outstanding harassment warrant for the phone calls to Ms. Gell. (Steckel I, B51-B54). Petitioner was visibly intoxicated upon his arrest and agitated, so the police did not question him immediately. (Steckel I, B67-B68). When Petitioner awoke the next morning, he asked police, "So I killed her?" (Steckel I, A63). The police advised Petitioner of his Miranda rights and offered him breakfast. (Steckel I, A62-A63, B75). Petitioner waived his rights and was then interviewed by the police. During the interview, Petitioner confessed in detail to his crimes against Ms. Long. (Steckel I, B1-B26). Petitioner recounted his attempts to strangle Ms. Long, his rape of Ms. Long and the fires he set. Petitioner told police he had taken the nylons, screw driver and lighter with him for use in the attack. Petitioner also told police that he discarded the screwdriver in a nearby dumpster. Petitioner

further confessed to harassing Ms. Gell and calling the News Journal and threatening Ms. Gell.

With Petitioner's permission, he was taken to Dr. Martin W. Scanlon, D.D.S., a forensic dentist who examined the wounds on Petitioner's finger. Doctor Scanlon opined that the wound had been caused within 24 hours by Ms. Long's teeth. (Steckel I, A56-58, B76).

Although some portions of Petitioner's confession lacked credibility, many of the details were confirmed by subsequent investigation by the police, including the autopsy of Ms. Long, the fire department's discovery of the points of origin of the fire, DNA testing of blood found on Ms. Long's apartment door, which matched Petitioner, and the discovery of the nylons, lighter and screwdriver used in the attack. (Steckel I, A52-54, B52, B60-69, B72-74, B80).

The jury convicted Petitioner of three counts of Murder First Degree, two counts of Burglary Second Degree, one count of Unlawful Sexual Penetration First Degree, one count of Unlawful Sexual Intercourse First Degree, one count of Arson First Degree and one count of Aggravated Harassment. Following a penalty hearing, Defendant was sentenced to death. On appeal, the Delaware Supreme Court affirmed Petitioner's convictions and sentences. Steckel v. State, 711 A.2d 5 (Del. 1998) (Nos. 27 & 45, 1997) (Steckel I).

In December 1998, Petitioner moved for post-conviction relief alleging ineffective assistance of counsel as a result of counsel's alleged failure to present mitigating evidence of Defendant's personality disorder during the penalty phase of trial. The Delaware Superior Court held two evidentiary hearings in December 2000 and January 2001. Thereafter, the Delaware Superior Court denied Petitioner's motion for post-conviction relief, and Petitioner appealed. State v. Steckel, 2001 WL 1486165 (Del. Super. Aug. 31, 2001) (No. 9409002147) (Steckel II) On appeal, the Delaware Supreme Court affirmed the superior court's decision. Steckel v. State, 795 A.2d 651 (Del. 2002) (No. 473, 2001) (Steckel III).

In his current Petition for federal habeas relief, Petitioner raises the same claim he raised in the state courts on post-conviction relief. Specifically, Petitioner contends that trial counsel was ineffective for failing to recognize, investigate and present, as a mitigating factor, evidence that Petitioner suffered from a narcissistic personality disorder which caused Petitioner to falsely exaggerate his culpability and propensities for criminal conduct. (D.I. 2 at 5).

STANDARD OF REVIEW

As amended by the Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA"), 28 U.S.C. § 2254(d) precludes a district court from granting a habeas petition with respect to any claim

that was adjudicated on the merits in a state court proceeding, unless the previous adjudication of the claim (1) "resulted in a decision that was contrary to, or involved an unreasonable application of clearly established Federal Law, as determined by the Supreme Court of the United States;" or (2) "resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in the state court proceeding." 28 U.S.C. § 2254 (d) (1)-(2). In applying this standard, a state court's factual determinations are presumed correct. 28 U.S.C. § 2254(e) (1). The petitioner bears the burden of rebutting the presumption of correctness by clear and convincing evidence. Id. The presumption of correctness applies to both explicit and implicit findings of fact. Campbell v. Vaughn, 209 F.3d 280, 286 (3d Cir. 2000), cert. denied, 531 U.S. 1084 (2001).

DISCUSSION

I. Petitioner's Claim Of Ineffective Assistance Of Trial Counsel

In seeking federal habeas relief, Petitioner contends that his trial counsel was ineffective for failing to recognize, investigate and present mitigating evidence demonstrating that Petitioner suffered from a narcissistic personality disorder. Petitioner contends that this personality disorder made him unable to distinguish between fantasy and reality and may have caused Petitioner to exaggerate the severity of his conduct.

Stated another way, Petitioner's personality disorder caused him to admit to more heinous acts than actually occurred, and such evidence may have had an aggravating impact on his sentence which would have been negated by evidence of his personality disorder. Although trial counsel had several psychiatrists and psychologists examine Petitioner, Petitioner contends that trial counsel was ineffective for failing to bring Petitioner's exaggerations and inconsistencies to the attention of these mental health professionals, thereby preventing them from diagnosing Petitioner's narcissistic personality disorder.

Petitioner presented this claim to the Delaware Superior Court and the Delaware Supreme Court in the context of post-conviction proceedings, and therefore, Petitioner has exhausted his state remedies. Smith v. Digmon, 434 U.S. 332 (1978). Evaluating Petitioner's claim in light of the standards enunciated in Strickland v. Washington, 466 U.S. 668 (1984), the Delaware state courts concluded that trial counsel's decision to forgo presenting mitigating circumstances based on Petitioner's tendency to exaggerate his criminal behavior was not objectively unreasonable. The Delaware state courts also concluded that trial counsel was not ineffective for failing to recognize Petitioner's exaggerations as symptomatic of an underlying disorder, given Petitioner's uncooperative behavior and his statements to the effect that he was playing a game with the

police. As the Delaware Superior Court explained:

Counsel believed that to fully play before the jury Defendant's exaggerations would only hurt the Defendant's chance of a successful mitigation case and would not have helped save their client's life. . . . When you place the Defendant's gamesmanship in context with the significant interaction by counsel with the Defendant it is clearly reasonable for the attorneys to believe the Defendant was generally being his uncooperative and aggravating self. The decision not to place this conduct before the jury was not only reasonable but the right decision. It would have hurt not helped Defendant's chances of success by portraying him as an even more dangerous individual. The Court finds that a reasonable basis existed for trial counsel's tactical decision in this area.

Steckel II, 2000 WL 1486165, *5. The Superior Court also concluded that counsel was not obligated to find additional mental health experts to explain Petitioner's conduct, because the mental health professionals already obtained by trial counsel interviewed Defendant at length and explained Defendant's conduct as resulting from Attention Deficit Disorder, Substance Abuse, and Antisocial Personality Disorder.

Affirming the Delaware Superior Court, the Delaware Supreme Court stated:

Trial counsel's decision to emphasize Steckel's antisocial personality, partially resulting from his background, with supporting expert testimony, was a strategic choice which clearly had a reasonable basis. We agree with the Superior Court that it would not have helped Steckel's cause to have portrayed him as a more dangerous individual because of the narcissistic overlay on his Antisocial Personality Disorder.

Steckel III, 795 A.2d at 653-654.

Further, both the Delaware Superior Court and the Delaware

Supreme Court concluded that even if trial counsel acted unreasonably, Defendant could not establish prejudice under Strickland. Given the weight of the evidence in the case as well as the brutal nature of the killing involved, the state courts concluded that there was no reasonable likelihood that the outcome of the penalty phase would have been different if the jury had been presented with evidence that Petitioner had a narcissistic personality disorder. As the Delaware Supreme Court stated, "Merely to characterize Steckel as vain and selfish would distract little from the depiction of him gleaned from the circumstances of the offense." Steckel III, 795 A.2d at 653.

Reviewing the decisions of the Delaware state courts in light of the applicable standard of review, the Court concludes that the decisions of the Delaware state courts were consistent with the applicable law, involved reasonable applications of the Supreme Court's decision in Strickland and were reasonable determinations in light of the evidence presented to the state courts. The Court further agrees with the conclusions of the Delaware state courts that the performance of Petitioner's trial counsel was not objectively unreasonable. Petitioner's trial counsel were both experienced criminal defense attorneys, and it was not unreasonable for them to have attributed Plaintiff's exaggerations to the disorders already identified by the prominent and well-experienced mental health experts they

retained. As for trial counsel's failure to provide these experts with Petitioner's exaggerated and false statements to the police, the Court further concludes that the conduct of trial counsel was not unreasonable where, as here, the evidence demonstrated that the mental health professionals hired by trial counsel were well-experienced, interviewed Petitioner extensively, performed their own testing on Petitioner, did not request Petitioner's statements to the police and indicated that Petitioner's statements to the police were not needed. Rompilla v. Horn, 355 F.3d 233, 253-254 (3d Cir. 2004) (holding that counsel did not act unreasonably in failing to provide certain evidence to mental health experts where experts hired were highly qualified, performed their own tests and did not ask for such information and concluding that counsel's deference to expert was within the range of reasonable professional assistance); Card v. Dugger, 911 F.2d 1494, 1512 (11th Cir. 1990) (same).

As for the second prong of Strickland, the Court also agrees with the Delaware state courts that Petitioner did not establish a reasonable likelihood that the outcome of the penalty phase would have been different if evidence of his narcissistic personality disorder had been presented to the jury. Although Dr. O'Brien testified during Petitioner's state post-conviction proceedings, that such evidence would have made a difference in the penalty phase, Dr. O'Brien also opined that in addition to a

narcissistic personality disorder, Petitioner suffered from antisocial personality disorder and displayed intermittent explosive disorder. (Steckel III, A120). In the Court's view, these diagnoses would have done little to convince the jury that Defendant should be spared from the death penalty. Indeed, characterizing Defendant as having "discrete episodes of [the] failure to resist aggressive impulses" and aggressiveness which is "grossly out of proportion to any provocation or precipitating psychosocial stressor" (Steckel III, B8-9) would likely have left the jury with the image of an even more dangerous individual. Britz v. Cowan, 192 F.3d 1101, 1104 (7th Cir. 1999) ("People with his background of antisocial behavior are more likely to commit murder than other people, but this does not make them attractive candidates for lenity, rather, it underscores their dangerousness."). As the Delaware Supreme Court noted, Petitioner's "gross exaggeration of his conduct, even if born of a narcissistic personality disorder, hardly serves to render him a more sympathetic figure in the eyes of the jury." Steckel III, 795 A.2d at 652-653.

In sum, the Court agrees with the decisions of the Delaware state courts and concludes that the opinions of the Delaware state courts were consistent with the evidence and applicable legal principles. Accordingly, the Court will dismiss the Petition and deny the Writ of Habeas Corpus requested by

Petitioner.

II. Certificate of Appealability

After its review of Petitioner's claim, the Court must determine whether a certificate of appealability should issue. See Third Circuit Local Appellate Rule 22.2. The Court may issue a certificate of appealability only if Petitioner "has made a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). Under this standard, Petitioner must "demonstrate that reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong." Slack v. McDaniel, 529 U.S. 473, 484 (2000).

In this case, the Court has concluded that Petitioner is not entitled to federal habeas relief. The Court is persuaded that reasonable jurists would not debate the correctness of its assessments. Because the Court concludes that Petitioner has failed to make a substantial showing of the denial of a constitutional right, the Court declines to issue a certificate of appealability.

CONCLUSION

For the reasons discussed, the Court will dismiss the Petition Under 28 U.S.C. § 2254 for Writ of Habeas Corpus by a Person in State Custody filed by Petitioner Brian D. Steckel and deny the Writ of Habeas Corpus sought by Petitioner. In addition, the Court will not issue a certificate of

appealability.

An appropriate Order will be entered.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

BRIAN D. STECKEL,	:	
	:	
Petitioner,	:	
	:	
v.	:	Civil Action No. 02-436-JJF
	:	
THOMAS CARROLL, Warden, and	:	
M. JANE BRADY, Attorney	:	
General,	:	
	:	
Respondents.	:	

O R D E R

At Wilmington, this 13th day of April 2004, for the reasons set forth in the Opinion issued this date;

IT IS HEREBY ORDERED that:

1. Petitioner Brian D. Steckel's Petition Under 28 U.S.C. § 2254 for Writ of Habeas Corpus by a Person in State Custody (D.I. 2) is DISMISSED and the Writ Of Habeas Corpus is DENIED.

2. For the reasons provided in the Court's Opinion, the Court declines to issue a certificate of appealability under 28 U.S.C. § 2253(c)(2).

JOSEPH J. FARNAN, JR.
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

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General,	:	
	:	
Respondents.	:	

O R D E R

WHEREAS, the Court has issued an Opinion and Order dated April 13, 2004 dismissing Petitioner Brian D. Steckel's Petition Under 28 U.S.C. § 2254 for Writ of Habeas Corpus, denying to issue the Writ Of Habeas Corpus, and declining to issue a certificate of appealability;

WHEREAS, the interests of justice require the Court to stay Petitioner's death penalty sentence pending the disposition of any appellate review sought by Petitioner of the Court's April 13 Order;

NOW THEREFORE, IT IS HEREBY ORDERED this 13th day of April 2004, that Petitioner's sentence is STAYED pending the disposition of any appellate review sought by Petitioner of the Court's April 13 Order.

JOSEPH J. FARNAN, JR.
UNITED STATES DISTRICT JUDGE